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HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3621 OF 1997.

Mrs. Shashi Mishra,
r/a: 11, Haridas Co-op Hsg.,
Society, Chheda Road,'
Saraswat Colony, Dombivili,
District : thane. ..Petitioner.

Versus.

1. The State of Maharashtra
Through: The Secretary,
Department of Education,
Mantralya, Bombay - 23

2. The Principal,
Royal Junior College & Royal
English School, Gautam Labdhi,
Shivaji Peth, Tilak Road,
Gautam Road,
Dombivili East 421 201.

3. The President,
Dombivili Yvak Eduation Trust,
Gautam Labdhi, Shivaji Peth,
Tilak Cross Road,
Dombivili East. ..Respondents.

Ms. Ushajee Peri h/f Mr. Mihir Desai for the petitioner.

Mr. R. S. Apte for the respondent nos. 2 & 3.

Ms. P. S. Cardoz A.G.P. for the State.

CORAM: S. B. MHASE &
D.G.KARNIK,JJ.

DATE: JULY 25, 2007.

ORAL JUDGMENT: (Per D. G. Karnik,J.)

1. By this petition the petitioner challenges Circular dated 15th June 1995 issued by the Government of Maharashtra, whereby it directed that the students

who have passed the B.Ed. by correspondence course outside Maharashtra and which course is not approved by the education department would not be regarded as recognised qualification under the Maharashtra Employees of Private School Rules, 1981. The petitioner also challenges the consequential order issued by the respondents 2 & 3 withdrawing her appointment to the post of a lecturer in the Junior College.

2. The Petitioner holds a Master's degree in science as well as a doctorate from A.P.S.S. University, Rewa (M.P.). The petitioner passed examination of Bachelor of Education by correspondence course of Barkatullah University, Bhopal. In July 1991 the Petitioner was appointed as a lecturer in chemistry in Royal Junior College & Royal English School, respondent no.2 herein on a temporary basis. Fresh appointments for one year at a time were made thereafter till the academic year 1994-95. In view of the circular dated 15th June 1995 the respondent 1 discontinued the appointment of the the petitioner vide letter dated 1st July 1995.

3. By filing an affidavit in reply of Mr. H.G.Marathe, Joint Director of Education, (School Education), Maharashtra State, Pune the respondent has opposed the petition. In the affidavit-in-reply the

reasons have been given why the Government does not recognise the B.Ed. correspondence course conducted outside the State of Maharashtra.

4. Rule-6 of the M.E.P.S. Rules, 1981 prescribes the minimum qualifications for the post of teachers and non teaching staff in primary schools, secondary schools, junior colleges and junior colleges of education to be as specified in the Schedule-B to the Rules. Part-III of Schedule-B prescribes the qualification for the teacher in a junior college.

5. Schedule-B Part-III Paragraph-1 prescribes the qualification for the Full-time teachers in junior colleges as a master’s degree of a statutory University in second class in the respective subjects and B.Ed. or a Diploma or Certificate in Teaching, approved by the (education) department. The words "approved by the department" qualify the "B.Ed. of a diploma or certificate in Teaching." Thus, the Department of Education is entitled to approve the B.Ed. and diploma or certificate of in teaching. In the affidavit in reply filed by Mr. Marathe the reasons for non approval of a B.Ed. correspondence course out of the State of Maharashtra have been stated. The affidavit further states that as B.Ed. graduates are expected to be teachers they get the advantage of practical training, if they complete their B.Ed. course through

a college. Their performance can be observed during regular B.Ed. course through the college. The students who have passed the B.Ed. degree through regular course are considered to be superior than students who have completed their B.Ed. course through postal correspondence where practical training is lacking. On this background to encourage the student to complete their B.Ed. course through regularly joining the college was sought to be desirable. On this background the Government took a decision on 15.6.1995 of not recognising the correspondence course conducted outside the State of Maharashtra, where the Government has no opportunity to observe the performance in practical training. It is for this reason the Government has not recognised the course conducted by correspondence by any University outside the State of Maharashtra. The reason given by the Government for not recognising the B.Ed. (Correspondence) courses outside the State of Maharashtra has a rational basis for the purpose of ascertaining the necessary qualifications of the teachers and ability of the teachers to teach. In the circumstances we do not find any fault with the decision of the Government in not recognising the B.Ed.(Correspondence) course conducted by the Universities outside the State of Maharashtra.

6. It is also to be noted that under clause 1

of part-III of Schedule-B the petitioner is required to have a master's degree in second class in addition to a degree of B.Ed. It is not shown that the petitioner has obtained the master's degree as well as B.Ed. degree acquired from any of the statutory universities. Nothing has been brought on record to show that she has obtained the M.Sc. and the B.Ed. degree from a statutory university. At the request of the petitioner's counsel time was granted by adjourning the matter twice to enable the petitioner to place before the Court the material to show that the petitioner has obtained the degrees from a statutory university. It is not shown that the A.P.S.S. University and the Barakatullah Vishawvidaylay are statutory universities. Even there is not even an averment in the petition to that effect. Despite the opportunity given the petitioner has failed to produce any material before this Court to show that both or either of the said Universities is a statutory university.

7. In any event since the petitioner does not possess a recognised B.Ed. degree through a recognised course or B.Ed. (Correspondence) degree obtained from a University in the State of Maharashtra or other university recognised by the Department of Education, the petitioner is not entitled to any relief. Petition is accordingly dismissed. Rule is discharged with no order as to costs. Interim relief, if any, stands

vacated.

(D.G.KARNIK, J.) **(S.B.MHASE, J.)**